

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 19-CR-213

JOHN M. SOLBERG,

Defendant.

**ORDER DENYING MOTIONS FOR RECONSIDERATION, MOTION TO CORRECT,
MOTION TO SUPPRESS AND REQUEST FOR FRANKS HEARING, REQUEST FOR
EMERGENCY CONSIDERATION, AND MOTION TO WITHDRAW PLEA**

Defendant John Solberg has again filed numerous motions seeking relief previously denied by this court. Solberg entered a guilty plea to one count of mail fraud contrary to 18 U.S.C. §§ 1341 and 2, arising out of a fraudulent scheme involving the sale of motor vehicles held on consignment and retention of the funds received. He was sentenced to 30 months imprisonment, three years of supervised release, and ordered to pay over \$290,000 (later increased to over \$300,000) in restitution. Dkt. No. 76. In early March, Solberg filed an untimely notice of appeal, Dkt. No. 86, and the court denied his motion to extend the time for appeal. Dkt. No. 98. In that Order, the court originally erroneously referred to Solberg's conviction as to "15 counts" rather than pleading guilty to *one* count—which happened to be count 15 of the indictment. Unfortunately, that clerical error was repeated in two subsequent orders, Dkt. Nos. 99 and 116. The court realized the clerical error on June 19, 2023, when addressing several of Solberg's earlier motions and corrected the errant reference in Dkt. Nos. 98, 99, and 116 on June 20, 2023. There was no attempt by the court to "hide" the correction as Solberg asserts, Dkt. No. 131 at 1. The corrected orders

were remailed by the clerk to Solberg and the docket entry was regenerated (resending the corrected orders to all who had previously received them) that very day. The original Judgment and Amended Judgment have appropriately listed Solberg's conviction since issuance. Therefore, Solberg's motion to correct statement, Dkt. No. 129, is denied as moot.

Solberg also filed a motion, Dkt. No. 128, asking this court to reconsider its denial of his motion for a new trial, Dkt. No. 99. For the reasons previously stated in the original order, that motion is denied.

Next, Solberg filed a Motion to Suppress, for an evidentiary hearing, and a request for a Franks hearing. This motion was previously filed within his motion for return of property, Dkt. No. 123, was denied as to that issue only via text order, Dkt. No. 126, because the issue was waived by virtue of the entry of his guilty plea. The court did, however, order the government to file a response to that part of the motion seeking a return of his property. The renewed motion to suppress, Dkt. No. 130, is denied for the reasons previously stated. The motion regarding property will be addressed when fully briefed.

Finally, Solberg filed a "Notice of Apology and Notice of Reconsideration of §3141 'Release Application'" and, as many of his motions have been, an unsigned Motion to Withdraw Plea. Dkt. Nos. 141 and 142. The court explained in two previous orders and a text order that this court lacks jurisdiction over the majority of Solberg's motions because his case is on appeal. Dkt. Nos. 116 at 2, 120 at 2, and 127, and will not reiterate the text here. Since filing his appeal, Solberg has e-filed no less than 25 motions and requests—typically listing every case number (civil, criminal, and appellate), causing the same motion to be addressed multiple times. Each of these filings have been promptly addressed by this court. However, Solberg's repetitive pro se motions seeking identical relief (to vacate judgment, for release, to suppress, and for reconsideration of

previously denied motions) wastes significant court resources. The new filings fail for the same reasons. In addition, the Motion to Withdraw Plea was unsigned. Pursuant to Fed. R. Crim. P. 49(b)(4), “Every written motion and other paper must be signed by at least one attorney of record in the attorney’s name—or by a person filing a paper if the person is not represented by an attorney.” And pursuant to the same rule, “[t]he court must strike an unsigned paper unless the omission is promptly corrected after being called to the attorney’s or person’s attention.” Fed. R. Crim. P. 49(b)(4). The Motion for Reconsideration and Motion to Withdraw Plea, Dkt. Nos. 141 and 142, are denied.

Typically, counsel representing a defendant provides a defendant legal advice, clarity on the law and procedures, and files appropriate motions on the defendant’s behalf. The Court of Appeals has granted Attorney Richards’ motion to withdraw as counsel, Dkt. No. 118, and it does not appear that Solberg has retained new counsel to represent him. Because, by his own account, he is not indigent, it appears that Solberg is proceeding pro se at this time. However, it is not the role of this court to provide legal advice to a defendant. The court does, however, encourage Solberg to consider retaining counsel to assist him in further representation. Solberg is cautioned that if additional repetitive motions seeking relief previously denied with no new facts continue to be filed, they will be summarily denied. The court of appeals is reviewing this case on appeal to see if this court was in error, and Solberg must await the outcome of that appeal.

NOW THEREFORE, IT IS HEREBY ORDERED that, for the reasons previously provided—namely lack of jurisdiction due to the appeal—the motions for reconsideration and motion to withdraw plea, Dkt. Nos. 128, 141, and 142, are **DENIED**.

IT IS FURTHER ORDERED that Solberg’s motion to correct statement, Dkt. No. 129, is **DENIED AS MOOT** as the clerical error was previously corrected on June 20, 2023.

IT IS ALSO ORDERED that Solberg's motion to suppress, for an evidentiary hearing, and a Franks hearing, Dkt. No. 130, is **DENIED** for the reasons outlined in the court's text order, Dkt. 126.

Dated at Green Bay, Wisconsin this 10th day of July, 2023.

s/ William C. Griesbach

William C. Griesbach
United States District Judge